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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

JAIME D.,

Petitioner,

v.

THE SUPERIOR COURT OF CONTRA  
COSTA COUNTY,

Respondent;

CONTRA COSTA COUNTY,  
CHILDREN AND FAMILY SERVICES  
BUREAU,

Real Party in Interest.

A103087

(Contra Costa County  
Super. Ct. No. J02-00487)

Petitioner Jaime D. is the Mother of the minor Damian D. The minor was adjudged a dependent child on May 20, 2002, after the court sustained factual allegations of the original petition and found that returning the minor to petitioner's custody would create a substantial risk to the physical and emotional well-being of the minor. (Welf. & Inst. Code, § 300.)<sup>1</sup> Petitioner failed to successfully complete the court-ordered reunification plan. The juvenile court retained dependency jurisdiction over the minor, terminated reunification services to petitioner, and scheduled a section 366.26 permanency planning hearing for October 1, 2003, with adoption as the recommended goal. Petitioner timely filed this petition pursuant to California Rules of Court,

<sup>1</sup> Unless otherwise indicated, all further statutory references are to the Welfare and Institutions Code.

rule 39.1B, contending that: (1) there was inadequate factual support for the court's findings that (a) the minor could not be returned to petitioner without a substantial risk of detriment to the minor, (b) petitioner was not likely to reunify with the minor even if given additional time, and (c) the children and family services bureau of Contra Costa County (the department) had provided adequate and reasonable reunification services to petitioner; (2) the court contributed to the department's failure to provide adequate and reasonable reunification services by suspending such services two weeks prior to the contested review hearing; and (3) the minor's attorney had a conflict of interest prejudicial to petitioner, and should have been removed. We have reviewed the record and deny this petition for extraordinary relief on the merits.

#### ***FACTUAL AND PROCEDURAL BACKGROUND***

This matter originally came to the attention of the department on March 5, 2002, when petitioner was arrested and jailed in Solano County on a charge of failure to appear in connection with other charges of possession of drugs and drug paraphernalia. On March 7, 2002, the department filed an original juvenile dependency petition pursuant to section 300, alleging that (1) as a direct result of petitioner's "serious and chronic substance abuse problem," the minor had suffered serious physical harm, or was at substantial risk of suffering such harm, from petitioner's willful or negligent failure to provide adequate care, support, and attention to the minor's medical needs, including obtaining immunizations; (2) the minor had been left without any provision for care and support because petitioner was incarcerated and the father was deceased; and (3) the minor's half-sibling had been abused and neglected in that the petitioner had failed to enroll the half-sibling in school or provide any home schooling. At the detention hearing on March 8, 2002, petitioner failed to appear, as she was in custody in a different county (Solano). The court found that it was necessary to detain the minor to protect the minor's physical and emotional health, and committed the minor to the department for placement and care.

Petitioner was not transported from jail for the subsequent jurisdictional hearings held on March 11, March 21 and April 4, 2002. Petitioner was present at the

jurisdictional hearing on April 18, 2002, and was referred by the court to the public defender for representation. As of April 25, 2002, petitioner had not yet obtained counsel. At the hearing on that date, with petitioner not present, the matter was set for a contested jurisdictional hearing to be held on May 6, 2002. The matter was continued to May 16, 2002, on which date petitioner appeared with counsel for the first time, and requested the contested jurisdictional hearing be continued. The request was granted.

At the continued hearing held on May 20, 2002, the court sustained the factual counts of the petition alleging that petitioner had a serious and chronic substance abuse problem which impaired her ability to provide adequate care and support for the minor, the minor's father was deceased, and the petitioner had neglected the half-sibling's schooling; dismissed the other counts; adjudged the minor a dependent child of the court; and ordered a reunification plan be developed for petitioner. The court found clear and convincing evidence that returning the minor to petitioner's custody would create a substantial risk to the minor's well-being; ordered the department to prepare a reunification plan with supervised visitation by petitioner of one hour twice a month; and ordered petitioner to participate in counseling. The court also admonished petitioner that if she was unable to resume custody, the court could terminate her parental rights.

A status review was held on July 15, 2002. The court ordered that petitioner's visits with the minor be confirmed 24 hours in advance, and that her telephone calls to the minor be monitored. At the review hearing on October 28, 2002, the matter was set for contested review hearing on November 18, 2002.

In its report prepared for the contested review hearing, the department stated that during the months of September and October 2002, although petitioner had one successful visit with the minor on September 18, she failed to come to the visit scheduled on September 25, and came late to another visit on October 9. Two scheduled visits (September 11 and October 23) had not taken place when the caretaker for the minor and his half-sibling cancelled because of health-related problems with the half-sibling. The department opined that petitioner was "just at the beginning of showing progress on her [reunification] plan." She had stayed in contact with the social worker, "made a real

effort to attend scheduled visits,” and “kept a stable job.” However, she was “struggling to find a stable residence” and a telephone number at which she could be reached. On that basis, the department recommended that reunification services be continued.

At the November 18, 2002, hearing, the court continued the minor as a dependent child, continued family reunification services for petitioner, and set the matter for a further review hearing. The court again specified that petitioner was to visit the minor at a minimum twice monthly for one hour each visit. At the next review hearing, held on February 3, 2003, the court ordered that petitioner was “to be where visit is going to take place one hour before scheduled visit,” that “24 [hour] advance notice is still required,” and that “[i]f parent aid calls [and petitioner] is not present, the visit [is] to be cancelled.”

In the report prepared for the status review hearing held on February 25, 2003, the department stated that petitioner continued to work full time as a security guard, had “reportedly taken a second job,” had “recently completed the process of clearing her warrant,” had attended one session of a parenting class, and was “[w]orking to improve her financial situation in order to obtain stable housing, and in general to stabilize her life.” However, the department also reported that petitioner had not yet begun the random drug testing and individual therapy required by the reunification plan, and had “missed several visits with her children.”

According to the declaration of petitioner’s counsel included in the writ petition, petitioner appeared at the unreported hearing on February 25, 2003, where she told the court that she had finished two parenting classes and was awaiting a referral for drug testing. In addition, petitioner’s attorney gave the court, the department’s social worker, and all attorneys present at the hearing copies of a private investigator’s report, attached as Exhibit A to the writ petition, regarding a failed visitation that occurred on January 8, 2003. According to the private investigator’s report, two witnesses at the department’s Antioch Social Services office (a receptionist and a security guard) remembered that petitioner had arrived early that day for a scheduled visitation, and waited over two and one-half hours before leaving. During that time, no explanation was given for the

department's failure to produce the minor for the scheduled visitation, despite petitioner's compliance with all the preliminaries required for visitation.

Petitioner appeared late for the review hearing held on March 7, 2003, arriving after the hearing had concluded. In its report prepared for the 12-month review hearing on April 16, 2003, the department stated that although petitioner had continued to work full time as a security guard and was trying to improve her financial situation and obtain stable housing, she had failed to document her attendance at a parenting class, and had still not begun either random drug testing or individual therapy. Despite petitioner's "genuine caring and concern" for the minor and his half-sibling, her inability to overcome the "many difficult obstacles" in her life rendered her unable to "provide adequate care for her children" at a time they were in immediate "need of a permanent caretaker who can provide them with stability." Because of this, and the fact the minor's maternal aunt and uncle had expressed their desire to adopt the minor, the department recommend that reunification services be terminated, and a section 366.26 termination hearing be set.<sup>2</sup>

At a hearing on May 6, 2003, from which petitioner's appearance was excused, the court considered the issue of the conflict of interest of the attorney for the minor and his half-sibling, and a new attorney appeared for the minor.

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<sup>2</sup> The department's report stated: "At this time, [petitioner Jaime D.]'s situation has changed very little since the last review court hearing. She has not scheduled an initial intake appointment to begin her random drug testing, and has not begun individual therapy. She has had at least one visit with her children, which reportedly went very well. The issues of substance abuse and trauma in both her childhood and adulthood continue to be important issues to be worked on that can greatly affect [petitioner]'s life and ability to parent. [Petitioner] has continued to struggle with the issue of not having a stable residence and phone number, where she can be easily reached. [Petitioner] has kept a stable job, and has completed the process necessary to clear her warrant.

"It appears that at this time, [petitioner] has many difficult obstacles to deal with, that may have seriously hindered her efforts to complete her case plan in order to reunite with her children. Clearly, [petitioner] has shown genuine caring and concern for her children. However, it may be quite a long time before [petitioner] can get her life in order to allow her to provide adequate care for her children. At the same time, her children continue to grow and are in need of a permanent caretaker who can provide them with stability."

At a hearing on May 22, 2003, the trial court suspended reunification services for petitioner. After a continuance, the contested review hearing was held on June 6, 2003. At the conclusion of the contested hearing, the court found that reasonable efforts had been made to prevent or eliminate the need to remove the minor from petitioner's care and custody and to make reunification possible; determined that return of the minor to petitioner's care and custody would create a substantial risk to the minor's well-being; ordered that reunification services for petitioner be terminated, and set a section 366.26 termination hearing for October 1, 2003. Petitioner was duly notified of the requirement that she seek relief by extraordinary writ in order to preserve her appellate rights. Petitioner timely filed her notice of intent to file the instant writ petition pursuant to California Rules of Court, rule 39.1B.

***SUBSTANTIAL RISK OF DETRIMENT TO THE MINOR***

Petitioner first contends there is insufficient evidence to support the juvenile court's finding that returning the minor to her physical custody and care would create a substantial risk of detriment to the minor. Petitioner is incorrect.

"The purpose of the dependency statutes is to provide for the protection and safety of a minor who comes under the jurisdiction of the juvenile court and, when consistent with the minor's welfare, to preserve the minor's family ties." (*In re Joseph B.* (1996) 42 Cal.App.4th 890, 900.) If a child is a dependent under the jurisdiction of the juvenile court, and is in a placement other than the home of a legal guardian, the child's status must be reviewed at least every six months. (§ 366.3, subd. (d).) For a child in long-term dependency placement, a permanency hearing must be held no later than 12 months after the date the child entered foster care, at which hearing the court shall decide whether to return the child to his or her home and, if so, when. "The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. . . . The failure of the parent or legal guardian to participate

regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental.” (§ 366.21, subd. (f).) We review the challenged finding to determine whether it was supported by substantial evidence. (*In re Shaundra L.* (1995) 33 Cal.App.4th 303, 316-317.)

In this case, petitioner’s failure to regularly participate with critical parts of the reunification service plan, specifically including the court-ordered random substance abuse tests and individual therapy, constituted prima facie evidence that the minor’s return to his custody would be detrimental. (§§ 366.21, subd. (f), 366.22, subd. (a); *Robert L. v. Superior Court* (1996) 45 Cal.App.4th 619, 625.) By demonstrating that petitioner had failed to participate fully in the court-ordered reunification plan, the department met its burden of establishing, by a preponderance of the evidence, a substantial risk of detriment to the minor if he were to be returned to petitioner’s custody and care. Petitioner has not provided sufficient evidence of substantial progress toward the goals of the reunification plan to rebut the presumption of detriment to the minor created by her lack of consistent participation in these elements of the reunification plan. The juvenile court was therefore justified in concluding that petitioner had failed to ameliorate the conditions in her life, specifically including substance abuse and inability to provide adequate care for the minor, that had led to the original removal of the minor from her care and custody. (*In re Heather B.* (1992) 9 Cal.App.4th 535, 561 [“Since court-ordered treatment programs are tailored by the court to remedy the circumstances that required removal of the child from parental custody, it is reasonable to conclude that in the absence of contrary evidence the failure to participate in such programs is sufficient to establish that the circumstances still exist”].)

On this record, then, the court’s determination terminating petitioner’s reunification services and scheduling a section 366.26 permanency planning hearing was supported by substantial evidence that the minor’s return to petitioner would create a substantial risk of detriment to his safety, protection, and physical or emotional well-being. (*In re Precious J.* (1996) 42 Cal.App.4th 1463, 1472-1473; *Angela S. v. Superior*

*Court* (1995) 36 Cal.App.4th 758, 762; *In re Heather B.*, *supra*, 9 Cal.App.4th at p. 561; *In re Misako R.* (1991) 2 Cal.App.4th 538, 545.)

***NO ERROR IN TERMINATING REUNIFICATION SERVICES***

Petitioner argues that the court erred in not ordering that further reunification services be furnished to her. In this regard, she argues that there was insufficient evidence before the court to support the conclusion that she could not successfully reunify with the minor if the court continued to extend reunification services and she were given additional time to fulfill the reunification plan. Petitioner's contentions are without merit.

Under the mandatory statutory scheme, a juvenile court may extend reunification services beyond twelve months “*only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time.*” (§ 366.21, subd. (g)(1), *italics added.*) In order to make that finding, the juvenile court is in turn “required to find *all* of the following: [¶] (A) That the parent or legal guardian has consistently and regularly contacted and visited with the child. [¶] (B) That the parent or legal guardian has made significant progress in resolving problems that led to the child's removal from the home. [¶] (C) That the parent or legal guardian has demonstrated the capacity and ability both to complete the objectives of his or her treatment plan and to provide for the child's safety, protection, physical and emotional well-being, and special needs.” (§ 366.21, subd. (g)(1), *italics added.*)

Completing some or a few of the conditions of a reunification service plan does not constitute significant progress in resolving the problems that led to the child's removal, or substantial compliance with the objectives of the reunification plan for purposes of extending reunification services beyond twelve months. Just as a parent's failure to meet all the reunification requirements is *prima facie* evidence that return of the minor to the parent would be detrimental (§ 366.21, subd. (f)), technical compliance with portions of a reunification plan does not automatically result in a substantial probability that the child will be returned to the physical custody of his parent and safely maintained

in the home within the extended period of time. A court must consider the parent's capacity to meet the objectives of the plan, and the progress the parent has made toward eliminating the conditions prompting the dependency. (*Constance K. v. Superior Court* (1998) 61 Cal.App.4th 689, 705-708; *In re Dustin R.* (1997) 54 Cal.App.4th 1131, 1143; *In re Joseph B., supra*, 42 Cal.App.4th at pp. 900-901; *Angela S. v. Superior Court, supra*, 36 Cal.App.4th at p. 763; *In re Heather B., supra*, 9 Cal.App.4th at p. 561.) In cases such as this, where substance abuse is a central issue, the juvenile court has the duty "to evaluate the likelihood that [a parent] would be able to maintain a stable, sober and noncriminal lifestyle for the rest of [the minor's] childhood." (*In re Brian R.* (1991) 2 Cal.App.4th 904, 918.)

On appeal, we must defer to the factual determinations of the trier of fact. It is the juvenile court that hears the testimony, makes determinations of credibility, and resolves conflicts in the evidence. It weighs the parent's statements and representations against other evidence of his or her ability to care for and protect the child. In short, it is not our function to redetermine the facts. As long as the juvenile court's decision was supported by substantial evidence such that a reasonable trier of fact could make such findings, we must affirm the determination of the juvenile court. (*In re Sheila B.* (1993) 19 Cal.App.4th 187, 198-200.)

Here, the juvenile court had ample cause to question petitioner's willingness, determination and capacity to meet the objectives of the reunification plan, and her progress toward eliminating the conditions that led to the dependency. There was clearly conflicting evidence concerning all three of the elements required to be found before extending reunification services past twelve months. Thus, contrary to the requirement of section 366.21, subdivision (g)(1)(A), the evidence showed that for a variety of reasons petitioner's record of completed visitations with the minor was inconsistent and irregular. The evidence was similarly conflicting whether petitioner had "made significant progress in resolving problems that led to the child's removal from the home" (§ 366.21, subd. (g)(1)(B)), or had "demonstrated the capacity and ability" either to "complete the objectives of . . . her treatment plan," or "to provide for the child's safety, protection,

physical and emotional well-being, and special needs” (§ 366.21, subd. (g)(1)(C)). On the other hand, the evidence was *undisputed* that petitioner had failed to commence either the court-ordered program of random drug testing or her individual therapy, had not presented written documentation of her attendance at parenting classes, and had been unable to obtain a stable residence.

On this record, we conclude there is no merit to petitioner’s assertion that the juvenile court’s termination of reunification services “was without adequate factual support.” To the contrary, there was substantial evidence that petitioner had not maintained consistent and regular visitation with the minor, had failed to make significant progress in resolving the serious problems that had led to the minor’s removal from her care, and had not demonstrated the capacity or ability either to complete the objectives of the court-ordered reunification plan or to provide for the safety and well-being of the minor. Based on this record, there is no reasonable possibility additional reunification services would result in petitioner’s reunification with the minor. Under these circumstances, the juvenile court did not err or abuse its discretion in refusing to continue to extend reunification services.

***REASONABLE AND ADEQUATE REUNIFICATION SERVICES WERE PROVIDED***

As an additional ground for attacking the juvenile court’s failure to continue to extend reunification services past twelve months, petitioner contends that the court erred in ruling that reasonable reunification services had been provided to her. We disagree.

Under the statutory scheme, a court may terminate reunification services and order the setting of a section 366.26 termination hearing only if “there is clear and convincing evidence that reasonable services have been provided or offered to the parent.”

(§ 366.21, subd. (g)(1), (2).) A family reunification plan must be developed as part of any dispositional order removing a child from its home. (*In re Jamie M.* (1982) 134 Cal.App.3d 530, 545.) Such a plan must be included in the social study submitted prior to any dispositional order in a section 300 case, and must be furnished to all parties prior to the hearing so the parent can be put on notice as to what must be accomplished to reunite the family. (Cal. Rules of Court, rule 1455; *In re Dino E.* (1992) 6 Cal.App.4th

1768, 1777.) “Consequently the plan must be specifically tailored to fit the circumstances of each family [citation], and must be designed to eliminate those conditions which led to the juvenile court’s jurisdictional finding. [Citation.]” (*In re Dino E.*, *supra*, 6 Cal.App.4th at pp. 1776-1777.) “Each reunification plan must be appropriate to the particular individual and based on the unique facts of that individual.” (*In re Misako R.*, *supra*, 2 Cal.App.4th at p. 545.)

In reviewing the reasonableness of the reunification services provided, we employ the traditional substantial evidence test. Under this standard, we view the evidence in a light most favorable to the respondent, and indulge in every legitimate reasonable inference to uphold the judgment. Substantial evidence is evidence that is “reasonable, credible, and of solid value,” such that a reasonable trier of fact could make such findings. (*In re Angelia P.* (1981) 28 Cal.3d 908, 924.) If there is any substantial evidence to support the findings of the juvenile court, we are without power to reweigh or reevaluate them. Instead, we must affirm the juvenile court’s determination as based on those findings. (*Constance K. v. Superior Court*, *supra*, 61 Cal.App.4th at p. 705; *In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1361-1362; *In re Precious J.*, *supra*, 42 Cal.App.4th at pp. 1472-1473; *Angela S. v. Superior Court*, *supra*, 36 Cal.App.4th at p. 762; *In re Misako R.*, *supra*, 2 Cal.App.4th at p. 545.)<sup>3</sup>

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<sup>3</sup> “In reviewing the reasonableness of the [reunification] services provided, this court must view the evidence in a light most favorable to the respondent. We must indulge in all reasonable and legitimate inferences to uphold the judgment. [Citation.] ‘If there is any substantial evidence to support the findings of a juvenile court, a reviewing court is without power to weigh or evaluate the findings. [Citation.]’

“The adequacy of a reunification plan and of the department’s efforts are judged according to the circumstances of each case. [Citation.] With respect to the plan itself, ‘[e]ach reunification plan must be appropriate to the particular individual and based on the unique facts of that individual. [Citations.]’ [Citation.] ‘The effort must be made to provide suitable services, in spite of the difficulties of doing so or the prospects of success. [Citation.]’ [Citation.] ‘[T]he focus of reunification services is to remedy those problems which led to the removal of the children. . . .’ [Citation.] ‘[T]he record should show that the [department] identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained reasonable contact with the [parent] during the course of the service plan, and made reasonable efforts to assist the

It is the job of the agency to *assist* parents with inadequate parenting skills to remedy the sources of their problems. It is not the agency's responsibility to eradicate the problems themselves. (*In re Riva M.* (1991) 235 Cal.App.3d 403, 414.) In this case, the department was simply required to make a good faith effort to develop and implement a family reunification plan providing suitable services, in spite of the difficulties in doing so or the prospects of success. The adequacy of reunification plans and the reasonableness of the department's efforts are judged according to the circumstances of each case. (*In re Ronell A., supra*, 44 Cal.App.4th 1361-1362; *Robin V. v. Superior Court* (1995) 33 Cal.App.4th 1158, 1164-1165; *In re Dino E., supra*, 6 Cal.App.4th at p. 1777; *In re Kristin W.* (1990) 222 Cal.App.3d 234, 254.) "In almost all cases it will be true that more services could have been provided more frequently and that the services provided were imperfect. The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances." (*In re Misako R., supra*, 2 Cal.App.4th at p. 547.)

The record shows that the reunification plan prepared by the department and ordered by the court was designed to address the specific substance abuse problems which had led to the original removal of the minor from petitioner's care and custody. Among other things the reunification plan required petitioner to follow the conditions for visitation; "[s]tay free from illegal drugs" and demonstrate an "ability to live free from drug dependency"; "[c]omply with all required drug tests"; and "[o]btain and maintain a stable and suitable residence" for herself and her children. Specific responsibilities imposed on petitioner included obtaining general mental health counseling, outpatient substance abuse services, and substance abuse testing. The department's responsibilities to petitioner herself were specified as case planning activities and referrals of petitioner to community resources and legal consultation. The juvenile court adopted the department's reunification plan by order dated May 20, 2002. Petitioner did not appeal

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[parent when] compliance proved difficult . . . .’ [Citation.]” (*In re Ronell A., supra*, 44 Cal.App.4th 1361-1362.)

this order. On November 18, 2002, the court found that reasonable services had been provided to petitioner, and amended the reunification plan to require petitioner to attend and successfully complete a parenting education class as approved by the social worker. Again, petitioner did not appeal this order.

Thereafter, the reports prepared by the department specifically noted that the department had “[r]eferred” petitioner to substance abuse testing, parenting classes, and individual counseling, had researched housing options for her, and had “[a]rranged and supervised visits.” Each of these reports nevertheless indicated that petitioner had not started her therapy or her substance abuse testing, had not documented her attendance at a parenting class, had maintained visitation with the minor only inconsistently, and had not obtained stable housing. “ ‘The requirement that reunification services be made available to help a parent overcome those problems which led to the dependency of his or her minor children is not a requirement that a social worker take the parent by the hand and escort him or her to and through classes or counseling sessions. A parent whose children have been adjudged dependents of the juvenile court is on notice of the conduct requiring such state intervention. If such a parent in no way seeks to correct his or her own behavior or waits until the impetus of an impending court hearing to attempt to do so, the legislative purpose of providing safe and stable environments for children is not served by forcing the juvenile court to go ‘on hold’ while the parent makes another stab at compliance.’ ” (*In re Christina L.* (1992) 3 Cal.App.4th 404, 414-415.)

Here, petitioner complains specifically that the department was largely to blame for her failure to maintain regular and consistent visitation with the minor, based on three specific incidents (on September 11 and October 9 and 23, 2002) in which, according to petitioner, she took the necessary steps to appear at a scheduled visitation only to find either that the minor’s caretaker had failed to bring the minor for the visit for one reason or another, or that the time of the visit had been changed and she had missed it. The factual evidence in the record on the circumstances of these missed visits is in conflict. Petitioner concedes that she was personally responsible for missing other scheduled visitations. The record shows that petitioner failed to attend several scheduled visitations

with the minor without adequate excuse, and missed three consecutive visitations between December 4, 2002, and January 8, 2003. We conclude there is substantial evidence to support the conclusion that the department provided reasonable and adequate assistance to enable petitioner to comply with the juvenile court's visitation orders, and that her failure to maintain regular and consistent visitation was her responsibility and not that of the department. (Cf. *In re Christina L.*, *supra*, 3 Cal.App.4th at pp. 414-415.)

In sum, the conditions of the reunification plan were reasonable, sensible and fair, and were properly designed to prevent a recurrence of the circumstances that led to the minor being removed from petitioner's custody in the first place. (See *In re Dino E.*, *supra*, 6 Cal.App.4th at pp. 1776-1777.) This case does not present the extreme examples of deficient reunification services described in *In re Daniel G.* (1994) 25 Cal.App.4th 1205 and *In re Elizabeth R.* (1995) 35 Cal.App.4th 1774. (See "exceptional" cases catalogued in *In re Brequia Y.* (1997) 57 Cal.App.4th 1060, 1067-1068.) Based on this record, we conclude there is substantial evidence to support the juvenile court's finding that the department made reasonable efforts to provide petitioner with adequate reunification services, and that the reunification services provided were in fact reasonable. Petitioner's contention in this regard must therefore fail. (*Angela S. v. Superior Court*, *supra*, 36 Cal.App.4th at p. 762.)

***PRIOR SUSPENSION OF REUNIFICATION SERVICES DID NOT AFFECT OUTCOME***

Petitioner next contends that the court "contributed" to the department's alleged "failure to provide adequate and reasonable reunification services" by suspending reunification services on May 22, 2003, two weeks before the contested review hearing on June 6, 2003. She asserts that the juvenile court's determination to suspend reunification services pending the contested hearing date "deprived Petitioner of a fair opportunity to resolve [what] had become effectively the only issue in the way of Petitioner's regaining custody of the subject [minor]." The contention is meritless.

By statute, reunification services for a child three years of age or older at the time of initial removal from parental custody "shall not exceed a period of 12 months from the date the child entered foster care," unless the court finds "a substantial probability that

the child will be returned to the physical custody of his or her parent or guardian within the extended time period or that reasonable services have not been provided to the parent or guardian.” (§ 361.5, subd. (a)(1), (3).) In this matter, the minor was removed from petitioner’s care on March 5, 2002. The initial date of the department’s reunification services to petitioner was May 6, 2002. On November 18, 2002, the juvenile court admonished petitioner that she would have until May 3, 2003, to complete the reunification plan.

Thus, the record shows that petitioner had the opportunity to utilize the department’s reunification services for the period of *more* than twelve months between the initial service date of May 6, 2002, and May 22, 2003, when the juvenile court suspended reunification services pending the contested hearing. This was actually more than two weeks past the date which the court had set for terminating reunification services. As petitioner implicitly acknowledges, she therefore received reunification services for a longer period than originally intended by the juvenile court. The juvenile court clearly admonished petitioner of the importance of completing drug testing, as mandated by the reunification services plan. The court suspended reunification services on May 22, 2002, only after learning that petitioner had still not undertaken the necessary steps to obtaining drug testing. At the time, petitioner argued that although “she didn’t do everything she’s supposed to do,” the juvenile court should give her “one last chance” to arrange for drug testing. She now complains that the juvenile court’s decision to suspend reunification services at that point, and deprive her of that “last chance,” “was error.”

Petitioner had more than enough time to obtain drug testing. As of May 22, 2003, two weeks past the original date for completion of the reunification plan, she had still not even signed up for it. Of equal importance, several other key parts of the reunification plan remained uncompleted, including parenting classes, individual counseling, and provision of stable housing. On this record, there was no error in suspending reunification services on May 22, 2003.

***NO EVIDENCE OF CONFLICT OF INTEREST ON THE PART OF MINOR'S ATTORNEY***

There were two children before the juvenile court in this matter: the minor in this case, and his half-sibling. The two children were fathered by two different men; the father of the minor in this case is deceased, and only the rights of petitioner with respect to minor are at issue. The father of the minor's half-sibling is actively pursuing his interests in her case. One attorney originally represented the interests of both children. On November 18, 2002, the juvenile court found that the department had failed to provide reasonable services to the half-sibling's father. At that point, petitioner's attorney raised the issue of whether one attorney representing both children constituted a possible conflict of interest. Counsel for the minors opined that there was no conflict at that point, and the matter was dropped. On May 6, 2003, at a hearing specifically set to discuss the issue of conflict of interest, the juvenile court determined that there was a conflict of interest, and appointed separate counsel for the two children. Petitioner argues that this determination came too late, and the dual representation had already prejudiced her rights. She urges that the attorney representing the minor should have been removed prior to the time he reported a conflict of interest. The contention is without merit.

Petitioner has failed to show either that there was an actual conflict of interest in the attorney's representation of both children at any point prior to that time the juvenile court appointed a second counsel to represent the minor, or that she was prejudiced by any possible such conflict. Contrary to petitioner's assertions on this writ, the fact that the minor's father is deceased, while the father of the minor's half-sibling is not, does not in and of itself constitute a conflict of interest with respect to petitioner herself. Neither does a conflict necessarily arise from the juvenile court's finding that the department had failed to provide reasonable services to the father of the minor's half-sibling.

More important, even assuming the minor's attorney should have declared a conflict of interest earlier than he did, petitioner has failed to show that she would have obtained a result more favorable to herself had the two children had separate representation earlier in the proceedings. In the absence of such a showing of prejudice, we cannot set aside the juvenile court's ruling for failure to appoint separate counsel for

the two children. (*In re Celine R.* (2003) 31 Cal.4th 45, 59-60.) The minor and his half-sibling were represented by separate attorneys at the hearings on May 22 and June 6, 2003. At both those hearings, it was clear that petitioner had failed to comply with the terms of the reunification plan in most respects, and that there was no likelihood reunification would take place within the statutory time limits. Petitioner did not introduce any evidence to show she had addressed the issues that had led to removal of the minor in the first place. The juvenile court's decision to terminate reunification services was clearly supported by substantial evidence. Petitioner does not explain how a different result might have occurred had the two children had separate counsel at any earlier point in the proceedings. We conclude the juvenile court's decision setting this matter for a section 366.26 hearing was not tainted by an earlier possible conflict of interest involving the minor's counsel.

#### ***DISPOSITION***

The petition for extraordinary relief is denied on the merits. (Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 893-895 [written opinion on petition for extraordinary relief precludes reconsideration of or further challenge to orders in any subsequent appeal].) Because the section 366.26 hearing is set for October 1, 2003, our opinion is final as to this court forthwith. (Cal. Rules of Court, rule 24(d).)

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McGuiness, P.J.

We concur:

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Corrigan, J.

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Pollak, J.